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App. No. 10/530790
Office Action Dated January 31, 2008

REMARKS

Favorable reconsideration is respectfully requested in view of the above amendments and following remarks. Claims 1, 10 and 12 have been amended. The limitation in claim 1 concerning the metal or its salts is supported by previous claim 9 and page 6, lines 27-29 of the specification. Claim 9 has been canceled without prejudice or disclaimer. Claims 10 and 12 have been amended editorially. Claims 17 and 18 are new. Claims 17 and 18 are supported for example by page 6, lines 30-32 of the specification. No new matter has been added. Claims 1-8 and 10-18 are pending.

Claim rejections - 35 U.S.C. § 102

Claims 1-4, 6, 8, 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,275,031 (Fischer et al.). The rejection is rendered moot, as the limitation in claim 9 has been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Withdrawal of the rejection is respectfully requested.

Claim rejections - 35 U.S.C. § 103

Claims 5 and 7 are rejected under 35 USC 103(a) as being unpatentable over Fischer. The rejection is rendered moot, as the limitation in claim 9 has been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Withdrawal of the rejection is respectfully requested.

Claims 9-14 are rejected under 35 USC 103(a) as being unpatentable over Fischer in view of US 5,374,561 (Pugia). Applicants respectfully traverse the rejection.

Claim 1 requires the test piece for creatinine measurement to include a compound expressed by the formula (1) and a metal or its salt that forms a colored complex with the compound. Applicants have found that in the absence of creatinine, the compound expressed by the formula (1) reacts with a metal as required by claim 1 to produce a colored complex, and in the presence of creatinine, the creatinine inhibits formation of the colored complex and reacts with the metal to produce a non-colored complex. Advantageously, the test piece required by claim 1 can be used to evaluate the presence or absence of creatinine and to determine the amount of creatinine in a sample based upon the degree of inhibition of the colored complex formation by creatinine.

Fisher teaches applying reagents for colorimetric determinations to molded supports consisting of nonabsorbent and water-insoluble material. Fisher further teaches that after the reaction between the substance to be detected and the reagents react, the substances are clearly discernible by the appearance of a color, and that the intensity of color is dependent on the amount and the activity of the substances. On the other hand, claim 1 requires a metal or its salt that forms a colored complex with the compound expressed by formula (1). The properties are such that when creatinine is present, the creatinine inhibits formation of the colored complex and reacts with the metal to produce a non-colored complex. Nothing in the reference teaches or even suggests using the metal along with the compound expressed by formula (1) as required by claim 1. Accordingly claim 1 and the dependent claims therefrom are patentable over Fisher.

The rejection relies on Pugia for a metal or its salt that forms a colored complex with the compound expressed by formula (1). However, the rejection's reliance is misplaced.

More particularly, Pugia is directed to a method of detecting creatinine in an aqueous medium. The method involves contacting the substance to be detected with cupric ions in the presence of a hydroperoxide and a redox indicator so as to provide a colored response in the presence of oxygen free radicals to detect the presence of creatinine. On the other hand, claim 1 requires a test piece that utilizes a detection mechanism that involves just the opposite. That is, claim 1 requires a metal or its salt that forms a colored complex with the compound expressed by formula (1). The properties are such that the presence of creatinine inhibits formation of the colored complex and reacts with the metal to produce a non-colored complex. The detection and measurements of creatinine are based upon the inhibition, as opposed to production of the colored complex formation by creatinine. Nothing in the reference teaches or suggests using the metal together with the compound expressed by formula (1) as required by claim 1. In fact, the reference leads away from evaluating creatinine by the disappearance, as opposed to production of color. Accordingly, claim 1 and the dependent claims therefrom are patentable over the references, taken alone or together.

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In view of the above, favorable reconsideration in the form of a notice of allowance is requested. Any questions or concerns regarding this communication can be directed to the attorney-of-record, Douglas P. Mueller, Reg. No. 30,300, at (612) 455.3804.

Respectfully Submitted,

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DPM/ym

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